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RECORD

Supreme Court of the United States

October Term, 1968

No. 150

FRANCES MATTIELLO,

Appellant,

v.

STATE OF CONNECTICUT,

Appellee.

APPEAL FROM THE APPELLATE DIVISION OF
THE CIRCUIT COURT OF CONNECTICUT

APPEAL FILED JUNE 2, 1967
PROBABLE JURISDICTION NOTED JUNE 3, 1968

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Chronological List of Important Dates

CIRCUIT COURT

FIRST CIRCUIT

NORWALK, CONNECTICUT

CR1-20111 AP

STATE OF CONNECTICUT

vs.

FRANCES MATTIELLO

March 17, 1966	Information
March 29, 1966	Motion for Bill of Particulars
April 6, 1966	Bill of Particulars
April 15, 1966	Substitute Information
April 15, 1966	Demurrer
May 11, 1966	Memorandum on Demurrer
June 10, 1966	Judgment File
June 21, 1966	Defendant's Appeal
November 10, 1966	Appellate Division Judgment File
November 10, 1966	Appellate Division Opinion
November 30, 1966	Petition for Certification to Supreme Court of Connecticut
December 22, 1966	Order Denying Certification
March 20, 1967	Notice of Appeal to Supreme Court of the United States
June 2, 1967	Jurisdictional Statement Filed
March 27, 1968	Additional Response Filed
June 3, 1968	Probable Jurisdiction Noted, and Motion for Permission to Proceed *In Forma Pauperis* Granted

Information

(Mounted Opposite)

6-3-66 → 3/25
$2500.00

FORMATION ☐ SUBSTITUTED
T-106 REV. 11-64

STATE OF CONNECTICUT
CIRCUIT COURT

Disposition date 6-10-66

No. CR/-20111

TITLE	STATE OF CONNECTICUT vs.	CIRCUIT NO	TO BE HELD AT (Town)	ON (Date)
	Frances Mattiello	1-N	Norwalk	

ALLEGATION

The undersigned, Assistant Prosecuting Attorney of the Circuit Court of the State of Connecticut, in said Circuit, on his oath of office complains, deposes, and alleges that he has reason to believe and does believe that

NAME OF ACCUSED: Frances Mattiello — OF (City or Town): Norwalk

FIRST COUNT	DID COMMIT THE CRIME OF: Manifest danger of falling into vice AT (Town): Norwalk in said state	ON OR ABOUT (Date): 3/7/66.	IN VIOLATION OF GENERAL STATUTE NO: 17-379
SECOND COUNT	DID COMMIT THE CRIME OF AT (Town) in said state	ON OR ABOUT (Date)	IN VIOLATION OF GENERAL STATUTE NO
THIRD COUNT	DID COMMIT THE CRIME OF AT (Town) in said state	ON OR ABOUT (Date)	IN VIOLATION OF GENERAL STATUTE NO

☐ See reverse side for additional counts

DATE & SIGNATURE — DATE: 3/17/66 — SIGNED (Prosecuting Attorney): [signature]

JURAT (For warrant only) — Subscribed and sworn to before me this 17 day of March 1966 — SIGNED (Title and full name, Sec. CA): [signature]

DEFENDANT ADVISED OF HIS RIGHTS BEFORE PLEA (Sign, date): Levine J. 3-25-66

TYPE OF BOND: ☐ SURETY ☐ CASH (17) YOUNGER 6-3- — ATTORNEY OR PUBLIC DEFENDER APP'TD.

BONDSMAN NO: — BOND (Continued from): $2500. — $ — $ — (Reduced to)

CONTINUED TO (Date): 4-15-66

TRANSFERRED TO JURY SESSION TO BE HELD AT — ON (Date) — FOR JURY OF (No.)

TRIED BY: ☐ COURT JURY: ☐ 6 ☐ 12 — PLACE OF TRIAL (Town): Norwalk

COURT ACTION

COUNT	DATE OF PLEA	PLEA	PLEA WITHDRAWN Date	PLEA WITHDRAWN New Plea	VERDICT OR FINDING	FINE	DAYS IN JAIL	DISPOSITION IN ADDITION TO OR OTHER THAN JAIL OR FINE
FIRST COUNT								
SECOND COUNT								
THIRD COUNT								

SEE SUBSTITUTE INFORMATION

BOND FORFEITURE: ☐ Bond in amount of $ called and forfeited 19 , at A.M./P.M. ☐ WARRANT AND ARREST ORDERED

NAME OF PROSECUTING ATTORNEY ON ORIGINAL DISPOSITION: CARROLL — SIGNED (Clerk — on original disposition): [signature] — SIGNED (Judge — on original disposition): [signature]

COUNT NO.	DATE	OTHER COURT ACTION (Time of jury verdict, change in jury election, opening judgment, etc.)	SIGNED (Judge — other than on original disposition)

MITTIMUS ISSUED (Date) — FINE PAID $ — RECEIPT NO — COURT REPORTER: CECEVICH

ARREST WARRANT

CIRCUIT NO. — N. | DATE 3/17/66 | State of Connecticut

To any sheriff, any city, town or borough policeman or constable, any state policeman, any special constable or police officer, or to any , Greeting: BY AUTHORITY OF THE STATE OF CONNECTICUT, you are hereby commanded to arrest the body of the within named accused and forthwith have said accused before said Circuit Court, to be held at the place aforesaid, to answer the charges alleged in the foregoing information of said assistant prosecuting attorney, and be dealt with thereon as the law directs. Hereof fail not, but of this warrant due service and return make.

BY THE COURT | SIGNED (A Judge of the Circuit Court) John F. Dee 3-17-66

RETURN ON ARREST

CIRCUIT NO. 1 | TOWN OF Norwalk | DATE | State of Connecticut

Then and there, by virtue of the within and foregoing complaint and warrant, I arrested the body of the within named accused and read the same in the hearing of said accused; and have said accused here in court for examination.

ATTEST (Officer's Signature and Department) James P. Lalley Captain

ADDITIONAL COUNTS

ALLEGATION

The undersigned, Assistant Prosecuting Attorney of the Circuit Court of the State of Connecticut, in said Circuit, on his oath of office, further complains, deposes, and alleges that he has reason to believe and does believe that the said accused

FOURTH COUNT	DID COMMIT THE CRIME OF AT (Town) in said state	ON OR ABOUT (Date)	IN VIOLATION OF GENERAL STATUTE NO
FIFTH COUNT	DID COMMIT THE CRIME OF AT (Town) in said state	ON OR ABOUT (Date)	IN VIOLATION OF GENERAL STATUTE NO
SIXTH COUNT	DID COMMIT THE CRIME OF AT (Town) in said state	ON OR ABOUT (Date)	IN VIOLATION OF GENERAL STATUTE NO
SEVENTH COUNT	DID COMMIT THE CRIME OF AT (Town) in said state	ON OR ABOUT (Date)	IN VIOLATION OF GENERAL STATUTE NO
EIGHTH COUNT	DID COMMIT THE CRIME OF AT (Town) in said state	ON OR ABOUT (Date)	IN VIOLATION OF GENERAL STATUTE NO

DATE & SIGNATURE | DATE | SIGNED (Assistant Prosecuting Attorney)

COURT ACTION

COUNT	DATE OF PLEA	PLEA	PLEA WITHDRAWN Date	PLEA WITHDRAWN New Plea	VERDICT OR FINDING	FINE	DAYS IN JAIL	DISPOSITION IN ADDITION TO, OR OTHER THAN, JAIL OR FINE
FOURTH COUNT								
FIFTH COUNT								
SIXTH COUNT								
SEVENTH COUNT								
EIGHTH COUNT								

SIGNED (Judge — on original disposition)

CCT-106 (BACK)

Bill of Particulars

FIRST CIRCUIT COURT

NORWALK, CONNECTICUT

CR1-20111

April 6, 1966

STATE OF CONNECTICUT

vs.

FRANCES MATTIELLO

In response to the defendant's motion for Bill of Particulars, the State alleges as follows:

Between March 7, 1966 and March 8, 1966 the accused did have intercourse with six males in the town of Norwalk.

STATE OF CONNECTICUT
s/ JOHN E. VALLERIE, JR.
John E. Vallerie, Jr.
Assistant Prosecutor

(Affidavit of Service Omitted in Printing)

Substitute Information

(Mounted opposite)

INFORMATION ☒ SUBSTITUTED
CCT-106 REV. 11-64

STATE OF CONNECTICUT
CIRCUIT COURT

No. CR1-20111 Disposition date 6-10-66

TITLE	STATE OF CONNECTICUT vs.	CIRCUIT NO.	TO BE HELD AT (Town)	ON (Date)
	— FRANCES MATTIELLO	1	Norwalk	4-15-66

ALLEGATION The undersigned, Assistant Prosecuting Attorney of the Circuit Court of the State of Connecticut, in said Circuit, on his oath of office complains, deposes, and alleges that he has reason to believe and does believe that

NAME OF ACCUSED	OF (City or Town)
FRANCES MATTIELLO	Norwalk

	DID COMMIT THE CRIME OF	AT (Town)	in said state	ON OR ABOUT (Date)	IN VIOLATION OF GENERAL STATUTE NO
FIRST COUNT	Manifest Danger of Falling Into Vice	Norwalk		3-7-66	17-379
SECOND COUNT	Lascivious Carriage	Norwalk		3-7-66	53-219
THIRD COUNT	Disorderly Conduct	Norwalk		3-7-66	53-175

☐ **See reverse side for additional counts**

DATE & SIGNATURE DATE 4/12/66 SIGNED (Assistant Prosecuting Attorney)

JURAT (For warrant only) Subscribed and sworn to before me this day of 19 SIGNED (Judge or clerk or Com. Sup. Ct.)

DEFENDANT ADVISED OF HIS RIGHTS BEFORE PLEA (Sign, date) 3-25-66 Lenne J.

CONTINUED TO (Date) 5-26, 6-10-

TYPE OF BOND ☐ SURETY ☐ CASH BONDSMAN NO. BOND (Continued) (Bind over) (Appeal) (Reduced to) $2500 $ $ $

ATTORNEY OR GUARDIAN ENTERED APPEARANCE PUBLIC DEFENDER Worthington 6-3 Phyllis Mattiello

TRANSFERRED TO JURY SESSION TO BE HELD AT ON (Date) FOR JURY OF (No.)

TRIED BY ☐ COURT JURY: ☐ 6 ☐ 12 PLACE OF TRIAL (Town) NORWALK

COURT ACTION

COUNT	DATE OF PLEA	PLEA	PLEA WITHDRAWN Date	PLEA WITHDRAWN New Plea	VERDICT OR FINDING	FINE	DAYS IN JAIL	DISPOSITION IN ADDITION TO, OR OTHER THAN, JAIL OR FINE
FIRST COUNT	5-13	NG			G			Conn. State Farm for Women
SECOND COUNT	6-3	NG			G			
THIRD COUNT	6-3	NG			NG.			

BOND FORFEITURE ☐ Bond in amount of $ called and forfeited 19 , at A.M./P.M. ☐ WARRANT AND ARREST ORDERED

NAME OF PROSECUTING ATTORNEY ON ORIGINAL DISPOSITION SIGNED (Clerk — on original disposition)
CARROLL

SIGNED (Judge — on original disposition)

COUNT NO.	DATE	OTHER COURT ACTION (Time of jury verdict, change in jury selection, opening judgment, etc.)	SIGNED (Judge — other than on original disposition)
	5-13	Demurrer Overruled. Stapleton	
	6-3	V.D. Ordered.	

MITTIMUS ISSUED (Date) 6-10-66 FINE PAID $ RECEIPT NO. COURT REPORTER GECEVICH

2

Demurrer

CIRCUIT COURT

FIRST CIRCUIT AT NORWALK

COUNTY OF FAIRFIELD

April 14, 1966

STATE OF CONNECTICUT

vs.

FRANCES MATTIELLO

The Defendant demurs to the complaint for the following reasons:

1. It purports to charge a crime pursuant to General Statutes §17-379, which statute is unconstitutional on its face, in that it violates the Fourteenth Amendment to the Constitution of the United States by discriminating against certain persons without basis for its support and thereby denying to these persons equal protection under the law.

2. It purports to charge a crime pursuant to General Statutes §17-379, which statute is unconstitutional on its face, in that it violates the Fourteenth Amendment to the Constitution of the United States in that it is too vague and uncertain in its meaning to give adequate warning of the conduct proscribed or to furnish limits sufficiently distinct to guide judges and juries in a fair administration of the law and thereby deprives defendant due process of law.

The Defendant

ROBERT N. GROSBY

By: Robert N. Grosby
Public Defender

Memorandum on Demurrer

CIRCUIT COURT

FIRST CIRCUIT AT NORWALK

No. CR1-18454

No. CR1-20111

May 11, 1966

STATE OF CONNECTICUT

vs.

FRANCES MATTIELLO

Defendant demurs to information on two grounds:

1. Section 17-379 of the General Statutes is unconstitutional, and violative of the 14th Amendment because it discriminates against certain females (viz., unmarried females between the ages of sixteen and twenty-one) without basis for its support and denying 'equal protection'.

2. And because its terms are vague and uncertain in its meaning . . . thereby depriving defendant of due process.

The Legislature has determined, in the exercise of its police power that any unmarried female between the ages of sixteen and twenty-one who is in manifest danger . . . and who is leading a vicious life, or who has committed any crime, upon conviction . . . may be committed to any institution except Long Lane Farm, is not discriminatory but carefully selective of a group that the Legislature in

its sound discretion finds necessary and beneficial to society.

The Legislature has also determined that any person, under sixteen is incapable of committing a crime. See Juvenile Court Act.

The Legislature in Section 17-379 has comparable legislation for males between the ages of sixteen and twenty-one.

Persons twenty-one and over are, upon conviction, committed elsewhere.

Different age groups as outlined above are treated according to its age, but not indiscriminately.

There is nothing vague about the above enumerated categories in Section 17-379, each is clear and succinct and capable of being legally defined.

Statutes will not be held unconstitutional unless clearly so.

Where the constitutionality of a statute is questioned, every presumption and intendment shall be made in its favor. *State* v. *Miller,* 126 Conn. 377 and *State* v. *Muolo,* 119 Conn. 323.

A statute of such consequence to be declared unconstitutional should be done by a court of higher jurisdiction.

The demurrer is overruled.

STAPLETON, J.

Judgment File

Judgment File—Criminal

Circuit Court

STATE OF CONNECTICUT

CIRCUIT COURT

FIRST CIRCUIT HELD AT NORWALK

On June 10, 1966

No. CR1-20111 AP

STATE OF CONNECTICUT

VS

FRANCES MATTIELLO
of East Norwalk, Connecticut

Present, Honorable Joseph A. Adorno, Judge.

Upon the complaint of George F. Carroll, Jr. Assistant Prosecuting Attorney for the Circuit Court, First Circuit, charging the accused with the crimes of manifest danger of falling into vice, in violation of section 17-379, lascivious carriage, in violation of section 53-219 and disorderly conduct in violation of section 53-175 of The General Statutes of The State of Connecticut, at Norwalk, Connecticut on or about March 7, 1966.

The said accused was presented before said Court on May 13 & June 6, 1966, when, it appearing to the Court

that the accused was a minor of the age of 18 years, Phyllis Mattiello of Norwalk was appointed guardian ad litem by the Court. The accused, being then and there called upon to answer to said complaint for pleas, said "Not Guilty".

The Court advised the accused of the accused's right to a trial by jury. The accused then elected to be tried by the Court.

After a full hearing, the Court found the accused Guilty of Manifest Danger of Falling into Vice, Section 17-379 and Lacivious Carriage of Section 53-219 and Not Guilty on Disorderly Conduct, Section 53-175.

It is therefore adjudged by the Court that the accused is Guilty in manner and form as charged in said complaint, as to Manifest Danger of Falling into Vice, Section 17-379 and Lascivious Carriage, Section 53-219 Committed the Accused to The Connecticut State Farm for Women.

By The Court,

WILLIAM J. MURPHY
William J. Murphy
Clerk

Appellate Division Judgment File

CR1-20111 AP

At a session of the Appellate Division of the Circuit Court held at Meriden in the State of Connecticut on November 10, 1966.

On Appeal From Circuit Court First Circuit

STATE OF CONN.

VS

FRANCES MATTIELLO

This appeal by the Defendant—Frances Mattiello from the judgment of said Circuit Court First Circuit was taken on the 21st day of June 1966.

On the 27th day of June 1966, the appellant filed his assignments of error claiming errors of law in the record, judgment, proceedings and decision of said Court as may appear in the record on file in said Court, and said appeal came to this session of the Appellate Division on November 10, 1966, when the parties appeared.

This Court, having heard the parties, finds that in the record, judgment, proceedings and decisions of said court there is no error.

Judgment entered November 10, 1966

By the Court,

WILLIAM J. MURPHY
Clerk

Appellate Division Opinion

STATE OF CONNECTICUT

v.

FRANCES MATTIELLO

File No. CR 1-20111 AP

Appellate Division of the Circuit Court

Argued July 18, 1966 Decided November 10, 1966

Information charging the defendant, in three separate counts, with manifest danger of falling into vice, lascivious carriage and disorderly conduct, brought to the Circuit Court in the first circuit where a demurrer to the first count was overruled, *Stapleton, J.;* and the issues were tried to the court, *Adorno, J.;* judgment of guilty on the first two counts and not guilty on the third count; and appeal by the defendant from the overruling of the demurrer. *No error.*

Robert N. Grosby, public defender, for the appellant (defendant).

George F. Carroll, Jr., prosecuting attorney, for the appellee (state).

KOSICKI, J. No finding or transcript of evidence has been filed by the defendant; nor is the appeal directed toward the finding of guilty on the second count on which the defendant was committed to the Connecticut State Farm for Women concurrently with the commitment on

the first count. The slim record before us yields little information on the factual background which of necessity we must consider in deciding the questions of law raised by the demurrer. After a full trial on the facts, we cannot pass on the court's ruling on the demurrer as a disembodied proposition of law.

With such meager facts as we can glean from the record, the following subject-matter appears to be admitted or undisputed. The defendant was arrested in Norwalk on March 17, 1966, on the charge of being in manifest danger of falling into vice, contrary to §17-379 of the General Statutes. This statute is quoted in the footnote.[1] At that time she was within one month of reaching her eighteenth birthday. On March 25, she was presented in court on the count referred to and advised of her rights. A guardian ad litem and a public defender were appointed by the court. On April 15, a substitute information was filed in which the defendant was charged with two additional counts, the second being an allegation of lascivious carriage, in violation of §53-219, and the third, disorderly conduct, in violation of §53-175. On the same day, the public defender filed a demurrer to the allegation appearing as the first count, claiming that (1) §17-379

[1] Sec. 17-379. "Commitment of girls over sixteen. Any unmarried female between the ages of sixteen and twenty-one years who is in manifest danger of falling into habits of vice, or who is leading a vicious life, or who has committed any crime, may, upon the complaint of the prosecuting attorney of the circuit court, be brought before said court for the circuit within whose jurisdiction she resides or is found, and, upon conviction thereof, may be committed, until she has arrived at the age of twenty-one years, to the custody of any institution, except Long Lane School, chartered by the general assembly or incorporated under the general laws for the purpose of receiving and caring for females who have fallen into or are in danger of falling into vicious habits."

was unconstitutional on its face in that it violates the fourteenth amendment to the constitution of the United States by discriminating against certain persons without basis for its support and thereby denying these persons equal protection under the law; and (2) it violates the fourteenth amendment because it purports to define a crime in language that is to vague and uncertain in its meaning to give adequate warning of the conduct proscribed or to guide courts in a fair administration of the law, thereby depriving the defendant of due process.

On May 13, the demurrer was overruled after hearing and a memorandum thereon filed. Thereupon, the defendant pleaded not guilty to the first count. For some reason, not apparent on the record, the plea of not guilty to the remaining two counts was entered on June 3 and the case continued for trial to June 10. After trial, on the same day, judgment of guilty was entered on the first two counts and not guilty on the third count. The court then committed the defendant concurrently on the first two counts to the Connecticut State Farm for Women and a mittimus was issued accordingly.

Only one error is assigned on this appeal and that is the court's overruling of the demurer. "The constitutionality of a statute upon which a criminal prosecution is based can be raised by demurrer. . . . The accused may plead over after a demurrer has been overruled. . . . [She] does not thereby waive the right to have the ruling upon demurrer reviewed on appeal. . . . *State* v. *Sul,* 146 Conn. 78, 80. "Upon the overruling of [her] demurrer, the defendant could have refused to plead over, let judgment enter, appealed from the judgment and raised the questions of law [she] now presents. Instead, [she] has appealed from the judgment entered after trial, but [she]

assigns no error in the trial. Where there has been a trial on the merits, this court should have the opportunity of reviewing the questions of constitutionality upon the facts established at the trial." Id., 83. It was also strongly suggested in the cited case that if it had not involved a criminal prosecution under a statute defining a serious crime and imposing a substantial penalty, the defendant would have been precluded from pursuing on his appeal any error claimed in the overruling of his demurrer. Ibid.

The rules stated in the *Sul* case, with meticulous precision and particularity, were ignored by the appellant in the case before us; but we do not rest our decision on that ground alone. The exact question presented on the merits has been overlooked by the defendant except for one sentence in the closing paragraphs of her brief: "There is no crime of being vicious or of falling into vice." Both parties appear to agree on this crucial point and the applicable law thereon appears to be well settled in Connecticut.

Turning our attention to the merits of the appeal, "[W]e cannot impute to the legislature an intent to pass an unconstitutional statute and a law should be construed, if it can reasonably be done, so as to make it valid." *State* v. *Muolo,* 119 Conn. 323, 330. A statute will not be held void for uncertainty if a practicable or sensible effect may be given to it. *State* v. *Zazzaro,* 128 Conn. 160, 165. The rule of strict construction does not allow the avoidance of the clear import of the law through some mere technicality in disregard of its context and in frustration of the obvious legislative intent. *State* v. *Faro,* 118 Conn. 267, 274.

Appellate Division Opinion

It should be noted at the outset that Title 17 of the General Statutes is devoted to a wide variety of sociological problems and legislative policy and methods for their correction and solution. It is entitled "Humane and Reformatory Agencies and Institutions." The aims and purposes of this legislation are unequivocal, clear, and unquestionably within the powers of legislature to achieve by law. They are, generally, to preserve and increase the benefits to an orderly society, deriving from the care, protection and welfare of those individuals who, because of lack of physical, mental or moral resources or discipline are especially in need of the salutary aid and earnest concern on the part of the general public. Section 17-379 is incorporated in chapter 309 (Reformatory Institutions) which is a component part of Title 17 (Part III, Miscellaneous Agencies). As we shall develop later, it is not a penal statute. Parts I (The Connecticut State Farm for Women), II (Long Lane School), IV (Connecticut Reformatory), and V (Connecticut School for Boys), and VI (General Provisions), constitute the remainder of chapter 309. The next succeeding and separate portion of the General Statutes, Title 18, is denominated "Penal Institutions" and deals with state prisons and jails.

In *Reynolds* v. *Howe,* 51 Conn. 472, the complainant, father of a minor son eleven years of age, made application for a writ of habeas corpus alleging unlawful confinement of his son in the State Reform School at Meriden. The son had been confined on a mittimus issued by a justice of the peace on complaint of a grand juror that the said Reynolds was in danger of being brought up, and was in fact being brought up, to lead an idle and vicious life. The proceedings were brought under the following

statute: " 'Justices of the peace shall have power to commit to the State Reform School ** any boy under the age of sixteen years, who is in danger of being brought up, or is brought up, to lead an idle or vicious life.' Acts of 1881, ch. 119." Id. p. 476. The trial court rendered judgment for the defendant.

Objection had been made to the constitutionality of the act on various grounds, inter alia, that the right of appeal to a jury trial were not allowed, that the proceeding was a criminal prosecution, that no provision was made for a hearing, and that there was no adequate definition of the word "vicious." In affirming the judgment, our Supreme Court of Errors said: "It is manifest that this statute, so far as we have quoted it, creates no crime and does not treat the condition of the boy as anything for which he is in fault. It found its origin in the social necessity of saving boys from impending ruin and the community from the prevalence of crime. It is of the same nature with statutes which authorize the compulsory education of children, . . . the appointment of . . . conservators to take charge of property of those who are incapable of managing their own affairs, the confinement of the insane, and the like. The welfare of society requires and justifies such enactments. . . . *Reynolds* v. *Howe,* supra 476, 477. "But, as we have shown the boy is not proceeded against as a criminal. Nor is confinement in a State Reform School a punishment, nor in any proper sense imprisonment. It is in the nature of parental restraint. . . . Statutes like this have been in existence for the past two hundred years, and it is very late to call their constitutionality in question." *Reynolds* v. *Howe,* Id., 478.

The same reasoning is reiterated and a like result reached in *Cinque* v. *Boyd,* 99 Conn. 70. The case arose out of a habeas corpus proceeding to procure the release of a minor fourteen year old, who had been committed to the Connecticut School for Boys in Meriden by the Juvenile Court of the city of New Haven. In a reservation to the Supreme Court of Errors, the final question propounded by the reservation was answered by advising that the writ of habeas corpus be dismissed. The court said (p. 80): "The law is attacked in this case largely upon constitutional grounds, and in some other respects as being invalid by obscurity and insensibility to an extent rendering its full enforcement impossible. The constitutional objections turn on whether the Act is one for punishment of crime, and therefore subject in its form and in the manner of its administration to the various particulars contained in the Bill of Rights, or whether it is concerned with the care and protection which every State as *parens patriae* in some measure affords to all inhabitants who from personal deficiencies or incapacities or conditions of life are in some degree abnormal, and hence in its scope, intent and method of administration is entirely of civil nature." And at page 85, the court, after citing cases in many jurisdictions, upholding the principle that inquiries conducted by juvenile courts are not criminal trials, quotes with approval from *Commonwealth* v. *Fischer,* 213 Pa. St. 48, 52, 62 Atl. 198: "To save a child from becoming a criminal, or from continuing in a career of crime, to end in maturer years in public punishment and disgrace, the legislature surely may provide for the salvation of such a child, if its parents or guardian be unable or unwilling to do so, by bringing it into one of the courts of the State without any process at all, for

the purpose of subjecting it to the State's guardianship and protection." See such cases as *Wissenberg* v. *Bradley,* 209 Iowa 813, 816, 229 N. W. 205, 207; *Weber* v. *Doust,* 84 Wash. 330, 332, 146 p. 623, 624; *Weber* v. *Doust,* 81 Wash. 668, 672, 143 Pac. 148, 150; *Marlowe* v. *Commonwealth,* 142 Ky. 106, 117, 133 S. W. 1137, 1141; *Ex Parte Januszewski,* (Cir. Ct., S. D. Ohio, E. D.), 196 F. 123, 126; *Re Perham,* 104 N. H. 276, 184 A. 2d 449.

Although many of these cases deal with juveniles, according to the age limits defined by state law, the conclusion is inescapable that §17-379, read within the context of the statutes in Title 17, is not one that imposes a penalty for a crime, but rather acts as a protective safeguard for the purpose of providing custody, care and training for females, between the ages of sixteen and twenty-one, who may be in manifest danger of falling into habits of vice, or who may be leading a vicious life, or who may have committed any crime. What we have already said makes unnecessary to discuss further the claim of vagueness or uncertainty, made by the defendant, in the use in the statute of the words "vice" and "vicious."

There is no error.

In this opinion Pruyn and Dearington, Js., concurred.

The foregoing is a true copy of the original opinion as filed with the Chief Clerk of the Circuit Court, but the opinion is subject to alteration and addition by the Judges until printed in the Connecticut Circuit Court Reports.

ELLIOTT R. KATZ
Chief Clerk

Supreme Court Order Denying Certification

SUPREME COURT OF ERRORS

CR1-20111AP

STATE OF CONNECTICUT

vs

FRANCES MATTIELLO

December 21, 1966

The Defendant having filed a petition for certification and the court having considered said petition finds that it should be denied.

Whereupon it is ordered that said petition be and it hereby is denied.

By the Court

s/ DOMINIC A. DICORLETO, Clerk